

PEST CONTROL ENFORCEMENT ADVISORY COUNCIL MEETING

July 20, 2010—Tallahassee, Florida

Conner Administration Building (Eyster Auditorium) and by Teleconference/WebEx
3125 Conner Boulevard—Tallahassee, Florida 32399—850.488.3731

All Agenda Times—including Public Comment and Adjournment—are Subject to Change

Meeting Objectives

- ✓ To Approve Regular Procedural Topics (Agenda, Report, Workplan and Meeting Schedule)
- ✓ To Conduct Annual Election of Council Officers—Elect New Secretary and Seat Chair and Vice-Chair Positions
- ✓ To Hear an Update on DACS Consumer Education Initiatives
- ✓ To Hear a Legislative Issues Update
- ✓ To Hear an Update on DACS Rule Development Efforts
- ✓ To Hear an Update and Discuss Agency Enforcement Activities and Policies
- ✓ To Hear an Overview of Emergency Certificate Issuance
- ✓ To Discuss Limited Certification Enforcement Policy
- ✓ To Hear a Report on Enforcement Activities Regarding Independent Contractors
- ✓ To Hear a Report on Minimum Requirements for Field Inspectors
- ✓ To Consider General Public Comment
- ✓ To Consider Council Member's Comments and Issues
- ✓ To Identify Needed Next Steps, Assignments, and Agenda Items For Next Meeting

Meeting Agenda—Tuesday, July 20, 2010

9:30	Welcome and Introductions Council Member and Public Introductions	(Leggett)
9:35	Agenda Review and Approval	(Blair)
9:40	April 20, 2010 Facilitator's Summary Report Approval	(Blair)
9:45	Updated Workplan and Meeting Schedule Review and Approval	(Blair)
9:50	Nominations Committee Recommendations and Election of Council Officer	(Council)
10:00	Agency Consumer Education Initiatives Update	(Page)
10:05	Agency Legislative Issues Update	(Page)
10:15	Agency Rule Development Efforts Update	(Page)
10:25	Agency Enforcement Activities and Policies Review and Discussion Including Review of Quarterly Enforcement Statistics and Trends, Case Studies	(Czerniak)
11:15	Break	
11:30	Emergency Certificate Issuance Overview/Update	(Page)
12:00	Limited Certification Enforcement Policy Discussion	(Page)

1:00	Enforcement Activities Regarding Independent Contractors Report	(Page)
1:15	Minimum Requirements for Field Inspectors Report	(Page)
1:30	General Public Comment	(Blair)
1:40	Council Member's Comments and Issues	(Blair)
1:50	Next Steps and Agenda Items for Next Meeting	(Blair)
	Next meeting agenda items, needed information, assignments, location, and date	
2:00	<i>Adjourn</i>	

Contact Information: jblair@fsu.edu ; <http://consensus.fsu.edu/DACS/pest-control.html>



Council Membership

Ray Capelouto, Jeff Edwards, Phil Koehler, Jeff Lee, Jennifer Leggett (chair), Ray Libretto, Mike Page, Steve Rutz, D.R. Sapp (secretary), David Schlessinger (vice-chair), and Mike Wilson.

Council Meeting Schedule 2010 and 2011

July 20, 2010—Tallahassee, Eyster Auditorium and via teleconference/web
 October 5, 2010—Tallahassee and via teleconference/web
 January 25, 2011—Tallahassee and via teleconference/web
 April 19, 2011—Tallahassee and via teleconference/web
 July 19, 2011—Tallahassee and via teleconference/web
 October 4, 2011—Tallahassee and via teleconference/web

Alternate 2011 Schedule (3 meetings/year format)

February 15, 2011—Tallahassee and via teleconference/web
 June 21, 2011—Tallahassee and via teleconference/web
 October 4, 2011—Tallahassee and via teleconference/web

Teleconference Information

Phone Number: 1.888.808.6959
 Conference Code: 9219088#
 To Mute Phone: *6
 To Un-Mute: #6

WebEx Information

Web Address:

<https://suncom.webex.com/suncom/j.php?ED=140733442&UID=0&PW=NZTc1Yzg1NDc1&RT=MIMxMQ==>

Meeting Password: pestcontrol

PCEAC TELECONFERENCE PARTICIPATION PROCESS

(Adopted Unanimously July 21, 2009)

ATTENDANCE

- Facilitator will ask Council members to identify themselves.
- Members will offer their names one at a time. To avoid confusion and to ensure accuracy, please wait until facilitator repeats and confirms a name before offering another.
- Once attendance is complete, the agenda will be reviewed and approved by the Council.
- Council members should announce if they have to sign-off before the teleconference meeting is complete, to ensure a quorum and an accurate count of votes.

PARTICIPANT ETIQUETTE

- Background noise from participants is picked-up and amplified on the conference leader's phone, especially if you are on a speaker-phone. Please refrain from sidebar conversations.
- Please place your phone on mute, unless you are speaking, to cut down on ambient background noise. Ensure your phone is muted if you leave the phone for any reason. Use the mute function on your personal phone, or the conference muting function as follows:
*6 to mute and #6 to un-mute.
- If your line creates a disturbance or has technical difficulties, the teleconference operator may be required to manually mute your line until the problem is resolved.
- Do NOT place your phone on hold (your system's background sound/music will play).

DISCUSSION PROCESS

- Facilitator will introduce discussion item or presenter.
- Presenter will provide overview of issue and recommendation(s) for Council action.
- Hold questions until presentation is complete.
- Once presentation is complete, Facilitator will ask if Council members have clarifying questions on the issue, create a speaker's list*, and call on members in-turn for clarification.
- Members participating via the internet shall indicate their desire to speak by using the "Raise Hand" function on the WebEx screen.
- Facilitator will ask if anyone from the public wishes to discuss the issue or propose alternative options, create a speaker's list*, and call on participants in-turn for discussion.
- Members of the public participating via the internet shall indicate their desire to speak by using the "Raise Hand" function on the WebEx screen.
- Facilitator will ask if any Council member wishes to discuss the issue or propose alternative options, create a speaker's list, and call on members in-turn for discussion.
- Once clarification and discussion is complete, Facilitator will ask if a Council member wishes to make a motion on the issue.
- Following a second for the motion, Facilitator will ask if there is any additional discussion.
- If the motion involves an option the public has already provided input on, then the vote is taken following any additional Council discussion; if the proposed action (motion) is materially different from what was previously discussed, an additional opportunity is provided for public comment, and then the Council votes on the motion.

**"Speaker's List" will be compiled from those in attendance, on the web, and participating solely by phone.*

COUNCIL PROCESS OVERVIEW

(Adopted Unanimously May 8, 2003)

The Pest Control Enforcement Advisory Council's consensus-building and decision-making process is a participatory one whereby on matters of substance, the members jointly strive for agreements which all of the members can accept, support or at least agree not to oppose.

In instances where, after vigorously exploring possible ways to enhance the members' support for the final decision on an issue or package of recommendations, and where 100% acceptance or support is not achievable, final recommendations of the Council will require at least a 72% favorable vote of all members present and voting. This super majority decision rule underscores the Council's view of the importance of seeking and developing agreements with the participation of all members and with which all can live with and support.

The Council will make decisions only when a quorum is present. A quorum shall be constituted by at least 51% of the appointed members being present (simple majority).

Council members, staff, and Facilitator will be the only participants seated at the table. Only Council members may vote on proposals and recommendations.

For substantive discussion issues, after discussion and public comment, a council member may make a motion to approve the issue. If there is a second to the motion the Facilitator will call for discussion. Once a motion is made and seconded the discussion will be restricted to only Council members unless a Council member requests specific clarification from a member of the public through the Facilitator. A member may wish to second a motion for purpose of Council discussion, and not necessarily as a show of support for the motion.

Only motions to approve will be considered (no motions to disapprove). If there is no motion after discussion the requested action is not approved.

Council's Mission Statement

The purpose of the Pest Control Enforcement Advisory Council is to advise the Commissioner of Agriculture as to appropriate regulatory and enforcement policy regarding the pest control industry. The perspectives of the Department of Agriculture and Consumer Services, the pest control industry, the scientific community, and the consumer will be represented and considered in a spirit of partnership, with the common goal of elevating industry enforcement and compliance to (i) maximize consumer protection and (ii) enhance public understanding of the pest control industry.

Council's Guiding Principles

- Principle 1: The overall purpose of the PCEAC is to serve as an advisory body to the Division of Agricultural Environmental Services.
- Principle 2: The PCEAC shall adhere to their Statutory authorities and charge.
- Principle 3: The PCEAC shall strive to achieve consensus on substantive recommendations made to DACS.
- Principle 4: The PCEAC shall operate under clear, concise, consistent, and fair procedural protocols.
- Principle 5: The PCEAC shall serve as an accessible liaison between the Division of Agricultural Environmental Services, the regulated industry, and consumers thereby protecting the interests of the public.

COUNCIL'S UPDATED WORKPLAN

(Last Updated and Approved Unanimously April 20, 2010)

WORKPLAN BY TASK

TASK A—ENHANCING COMMUNICATION BETWEEN AND AMONG THE AGENCY, INDUSTRY, AND PUBLIC

1. Develop list of programmatic and operational statistics Council would like to review on an ongoing basis.

- A. Council will review enforcement statistics at each meeting.
- B. Council will review sample representative enforcement cases at each meeting.
- C. DACS will update Council on rulemaking efforts at each meeting.
- D. DACS will update Council on relevant statutory issues at each meeting.

2. Develop recommendations regarding enhancing accountability for improper acts.

3. Provide cases/statistics regarding disclosures for treatment failures.

4. Develop recommendations for improving consumer education on procedures for filing complaints (complaint process) and enhancing the visibility of the process.

A. DACS compliance assistance requests proposal adopted at July 2004 meeting.

B. Compliance assistance requests process reviewed with enforcement statistics at each meeting.

5. Review Department's website for possible recommendations on content and organization.

6. Public Participation at Council Meetings

A. Process amended at the April 2004 and October 2008 meetings.

7. Council Effectiveness

A. Council discusses Effectiveness Assessment Survey results annually at the April meeting.

B. Council discusses Workplan Prioritization Exercise results annually at the January meeting.

8. Council Policies

A. Council rotates Chair/Vice-Chair positions and elects new Secretary annually at the July meeting.

B. Council considered a member proxy proposal at the July 19, 2005 meeting.

C. Member Comment Process for absent members was adopted October 18, 2005.

D. Member attendance and meeting frequency policies were revised January 17, 2006.

E. Council reviewed membership terms and statutory mandate January 17, 2006.

F. Council adopted Teleconference Participation Process at the July 2009 meeting.

G. Scope of issues for Council evaluation/discussion decision:

Council agreed that their focus will be on developing recommendations to improve the enforcement of existing regulations; and, would recommend statutory or rule changes as a by-product of this activity and not as a primary Council focus.

(November 20, 2003)

9. Coordinate enforcement strategies for new construction pre-treatments between: DACS, Florida Building Commission; BOAF (building officials), FHBA (home builders), and PCO's.

A. Council reviewed "Termite Protection in Buildings" document at the April 2005 meeting.

10. Consumer Education Efforts

A. Council discussed consumer education strategies at the July 19, 2005 meeting.

B. Council convened a Consumer Education Subcommittee at the July 19, 2005 Meeting.

C. Council discussed consumer education strategies and public service messages at the July 2007 meeting.

TASK B—ENHANCING AGENCY LICENSING, TRAINING AND EDUCATION PRACTICES/POLICIES

1. Develop recommendations to ensure that there are consistent and uniform training requirements that all inspectors must achieve prior to working in the field.
A. Council will hear a report on minimum requirements for field inspectors at the July 2010 meeting.
2. Organize discussions on Task B to be specific to the different categories of pest control (i.e., Fumigation, Lawn and Ornamental, General Household Pest Control, and Termite).
3. *Council heard a report on FDACS Certification Exams at the April 18, 2006 meeting.*
4. *Council discussed inspector training related to enforcement issues at the April 2006 meeting.*
5. *Council heard an update on supervision and training issues at the July 18, 2006 meeting.*
6. *Member's toured the Termite Training Facility prior to the April 2008 meeting.*
7. *Council discussed training issues and plans regarding ID cardholder training at the July and October 2008 meetings.*
8. *Council heard a report on certified pest control operators certification exam at the July and October 2008 meetings.*
9. *Council discussed training in the pest control industry at the April 2009 and July 2009 meetings.*
- 10. Council will discuss emergency certificate issuance at the July 2010 meeting.**

TASK C—ENHANCING AGENCY ENFORCEMENT PRACTICES/POLICIES

1. Review and develop recommendations on the Department's disciplinary procedures. Draft reviewed and adopted by Council on November 20, 2003.
2. Review and develop recommendations on the language used in the Department's various forms.
 - A. *Feasibility assessment for a negotiated rulemaking on the WDO report form was completed on February 5, 2004.*
 - B. *WDO Inspection Form workshop process was completed in January of 2006.*
3. Recommendations for dealing with illegal operators.
 - A. *Agency updated Council regarding statistics at the April 2004 and January 2005 meetings.*
 - B. *Council will discuss unlicensed activities at a subsequent meeting.*
4. Make recommendations on what the Agency's enforcement priorities should be for the coming year—Annual Task. *Draft reviewed and adopted by Council on November 20, 2003.*
5. Review and develop recommendations to ensure the Department has clear, uniform, and consistent enforcement standards.
 - A. *Inspections procedures overview given by Agency on July 17, 2003.*
 - B. *Agency enforcement case process overview given on July 17, 2003.*
 - C. *Complaint response procedures overview given by Agency on September 18, 2003.*
 - D. *Council will consider uniform procedures for notifying PCO's of Agency actions at a future meeting.*
 - E. *Council discussed preventive treatment for new construction records inspection procedures at the July 2004 meeting.*
 - F. *Council reviewed protocols for inspecting Borates used in new construction July 2004 and January 2005.*
 - G. *Council conducted a joint meeting with DACS inspectors to discuss uniform enforcement procedures July 2004.*
 - H. *Council reviewed Neutral Scheme Inspections Policy at January 2005 meeting.*
 - I. *Considered a proposal for testing for the presence/absence of preventive residual soil treatments January 2005.*
 - J. *Council developed recommendations for neutral scheme inspections including a set of criteria July 19, 2005.*
 - K. *Adopted a Compliance Assistance Request Process at the April 22, 2004 meeting, and revisions 7/20/04.*
 - L. *Council discussed enforcement issues related to ID cards October 18, 2005.*
 - M. *Council discussed compliance resolution rates at the October 18, 2005 meeting.*

<p>N. Council approved WDO neutral scheme pilot project at the October 18, 2005.</p> <p>O. Considered recommendations to improve effectiveness of post construction treatment standards July/October 2005.</p> <p>P. Council considered recommendations regarding prior notification of inspections at the January 2006 meeting.</p> <p>Q. Council conducted a joint meeting with DACS inspectors to discuss enforcement procedures October 2006.</p> <p>R. The Council discussed the “three strike rule” at the October 2006 meeting.</p> <p>S. Council discussed the Field Advisory Notice (FAN) at the July 2007 meeting.</p> <p style="padding-left: 20px;">a. Council discussed and approved FAN Guidance Document at the October 2007 meeting.</p> <p style="padding-left: 20px;">b. Council reviewed and discussed FAN implementation pilot project at the April 2008 meeting.</p> <p style="padding-left: 20px;">c. Council heard an update on the FAN program at the April 2009 meeting.</p> <p>T. Council discussed WDO inspections by home inspectors at the July 2007 and April 2008 meetings.</p> <p>U. Council discussed licensee inspections procedures pilot program at the October 2008 meeting, and discussed revised forms at the January 2009 meeting.</p> <p>V. Council discussed implementation of recently adopted DACS rules at the Oct. 2008 meeting.</p> <p>Y. Council heard report on DACS rule authority for defining supervision and duties of CO January 2009.</p> <p>X. Council heard report regarding standardized letter for business tax clarification January 2009.</p> <p>Y. Council discussed DACS enforcement issues and polices regarding willful violators at the January 2010 meeting.</p> <p>Z. AA. Discussed DACS notification policy regarding administrative action against ID cardholders January 2010.</p> <p><u>AA. Council discussed issues/difficulties regarding regulation of pesticide sales at the April 2010 meeting.</u></p>
<p>6. Review and Develop Recommendations Regarding Contract Issues.</p> <p>A. The Council discussed the “common names” of WDO’s covered in contracts at the October 2006 meeting.</p> <p>B. Council will monitor new WDO contract rules and develop recommendations for enhancing enforcement as needed based on a minimum of one year of monitoring experience.</p> <p>C. Council discussed issues regarding DACS GHP contracts at the January 2010 meeting.</p>
<p>7. Certified Operators duties and issues.</p> <p>A. Council discussed Absentee Certified Operators at the July 2007 meeting.</p> <p>B. Council discussed responsibilities of certified operators at the April 2008 meeting.</p> <p>C. Council will discuss the definition of “Supervision” at a subsequent meeting.</p>
<p>8. Independent Contracting Issues.</p> <p>A. Council discussed independent contracting in the Industry at the October 2008 meeting.</p> <p>B. <u>Council will hear a report regarding enforcement activities regarding independent contractors at the July 2010 meeting.</u></p>
<p>9. Limited Urban Landscape Commercial Fertilizer Applicator Certification Issues.</p> <p>A. Council discussed Limited Urban Landscape Commercial Fertilizer Applicator Certification implementation issues at the October 2009 meeting.</p> <p>B. <u>Council will discuss limited certification enforcement policy at the July 2010 meeting.</u></p>
<p>10. Information Technology and Web-Based Database Issues.</p> <p>A. Council discussed DACS development of website/ data base for archiving WDO inspections at the January 2010 meeting, <u>and evaluated DACS implementation proposal at April 2010 meeting.</u></p>

TASK D—ENHANCING INDUSTRY PRACTICES
<i>1. Presentation on issues of concern to PCO's given on July 17, 2003.</i>
<i>2. Council discussed pretreatment preconstruction contracts with builders at the October 17, 2006 meeting.</i> A. Council will rank options related to pretreatment preconstruction contracts with builders at a future meeting.
<i>3. Council considered requirements related to assumption of WDO contracts at the January 2006 meeting. The issue was assigned to the Education Subcommittee.</i>
<i>4. Discussed Africanized Honeybees and implications to the industry at the January 2006 meeting.</i>
<i>5. Council discussed the use of second ID cards by non-certified pest control operators for training purposes related to qualifying for licensure at the July 2006 meeting.</i>
<i>6. The Council discussed the use of cell phones related to advertising and soliciting rules at the July 2006 meeting, and recommended that DACS address the appropriate uses of cell phones and other new technologies.</i>
<i>7. Council discussed the assumption of warranties (WDO contracts), and DACS relevant rule efforts, without treatment at the July 2007 meeting.</i> A. Council will discuss insurance limits for WDO contracts at a future meeting.
<i>8. Council discussed WDO inspections by home inspectors at the July 2007 meeting.</i>
<i>9. Council discussed posting for perimeter application of pesticide to lawn/ foliage at the April 2008 meeting.</i>
<i>10. Council heard report on use of Borates for drywood termite treatment at January 2009 meeting.</i> A. Council will discuss Bora-Care preventative treatments at a future meeting.
<i>11. Council discussed U.S. Court of Appeals opinion on the Clean Water Act at April 2009, July 2009, and October 2009 meetings.</i>
<i>12. Council discussed EPA labeling use requirement proposal for Chloropicrin used in structural fumigation at the July 2009 meeting.</i>
<i>13. Council discussed annual termite inspection fee without a guarantee/ contract at the April 2010 meeting.</i>

TASK E—ANNUAL TASKS
1. Council shall meet quarterly starting with January/February of each year. Regularly scheduled meetings will held in January/February, April, July, and October of each year.
2. Council discusses Workplan Prioritization Exercise results annually at the February meeting. The exercise is introduced at the meeting immediately prior to the February meeting (October meeting).
3. Council discusses Effectiveness Assessment Survey results annually at the April meeting. The exercise is introduced at the meeting immediately prior to the April meeting (February meeting).
4. Council rotates Chair position and elects new Secretary during each July meeting.
5. Council makes recommendations on Agency's enforcement priorities for the coming year, annually at the October meeting.
6. Council shall meet in central locations, start meetings at 10:00 AM and conclude at 3:00 PM. <i>This policy is suspended due to travel/ budget constraints. Meetings are held in Tallahassee with a teleconference and WebEx participation option.</i>

PCEAC WORKPLAN PRIORITIZATION EXERCISE RESULTS					
Workplan Task	Rank	Rank	Rank	Rank	Rank
	2010	2009	2008	2007	2005
Illegal Operators	11	1	6	10	1
Independent contracting	11	1	12	—	—
Training in the Industry	9	3	—	—	—
Unlicensed activities	5	4	1	—	—
WDO inspections by home inspectors	18	5	2	1	—
Inspector training & education	20	6	10	1	6
Consumer education efforts	15	7	13	1	—
Defining supervision	1	8	5	—	—
Absentee CO's	11	9	2	—	—
Accountability for improper acts	1	9	6	—	—
ID card enforcement	9	11	11	—	—
Clean Water Act opinion	5	12	—	—	—
Enforcement priorities	5	12	8	8	—
Defining duties of CO	5	14	2	—	—
Notification of PCO's	15	15	16	13	—
Pretreatment enforcement strategy coordination	24	16	20	8	6
Records inspections procedures	17	16	31	16	2
WDO contract rules	18	16	13	6	—
Posting for perimeter applications	31	19	—	—	—
Assumption of WDO contracts	21	20	8	1	—
Pretreatment contracts with builders	22	20	18	11	—
Use of borates for drywood termites	26	22	—	—	—
Licensee inspection procedures	22	23	—	—	—
Discuss pest control by category	30	24	—	—	4
Review of DACS forms	31	24	30	19	3
Website recommendations	26	24	—	—	—
Use of second ID cards	35	27	26	—	—
Council policies	31	28	32	12	—
Certification exams	26	29	27	14	—
Common names of WDO's in contracts	36	30	25	6	—
Insurance limits for WDO contracts	26	31	—	—	—
Willful violators	1	—	—	—	—
Fertilizer applicator certification issues	4	—	—	—	—
EPA labeling for Chloropicrin	14	—	—	—	—
GHP contracts	24	—	—	—	—
WDO website	31	—	—	—	—
Field advisory notice	—	done	15	5	—
Cell phones & advertising	—	done	17	—	—
Three strike rule	—	done	18	15	—
Compliance assistance	—	done	21	23	—
Post construction treatment	—	done	21	20	9
Bora-Care preventive treatment	—	done	21	—	—
Neutral scheme inspections	—	done	24	22	6
Prior notification	—	done	27	21	—
Inspecting borates	—	done	27	17	5



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FACILITATION, MEETING AND PROCESS DESIGN BY JEFF A. BLAIR

"The purpose of the Consortium (FCRC Consensus Center) is to serve as a neutral resource to assist citizens and public and private interests in Florida to seek cost-effective solutions to public disputes and problems through the use of alternative dispute resolution and consensus building." --F.S. Public Postsecondary Education §1004.59

The FCRC Consensus Center, based at Florida State University in Tallahassee and University of Central Florida in Orlando, provides consensus building and collaboration services, education, training and research to build a broader understanding of the value of collaborative approaches and create a cadre of citizens, leaders, professionals and students skilled in using collaborative consensus building processes.

The FCRC Consensus Center serves as an independent public resource facilitating consensus solutions and supporting collaborative action.

The FCRC Consensus Center offers neutral technical assistance to a wide range of professionals, agency staff and private citizens and organizations engaged in collaboration on public challenges. We help to design and implement efforts for community and public problem-solving and strategic planning, intergovernmental collaboration, and on land use, environmental, energy and other issues.



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